

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, Inc., a Delaware
corporation; and WEBER-STEPHEN
PRODUCTS LLC, a Delaware Limited
Liability Company,

Plaintiffs,

v.

Individuals and entities doing business as
the following Amazon Selling Accounts:
ACKARY; AVANTAWAY; CCBAO;
GRILLIKE; HIMIRL; HOZOE; HZHJIY;
MELLSSA; MUSTBULTY; NEXPLAS;
PSHIP; VIDVIE-US; and DOES 1-10,

Defendants.

CASE NO. 2:21-cv-01512-TL

(LEAD CASE)

ORDER GRANTING *EX PARTE*
MOTION TO EXPEDITE
DISCOVERY

AMAZON.COM, Inc., a Delaware
corporation; AMAZON.COM SERVICES
LLC, a Delaware limited liability company;
and WEBER-STEPHEN PRODUCTS
LLC, a Delaware Limited Liability
Company,

Plaintiffs,

v.

Individuals and entities doing business as
PDREAM and PHONIY; and DOES 1-10,

Defendants.

CASE No. 2:22-cv-00674-TL

AMAZON.COM, Inc., a Delaware
corporation; AMAZON.COM SERVICES
LLC, a Delaware limited liability company;
and WEBER-STEPHEN PRODUCTS
LLC, a Delaware Limited Liability
Company,

CASE No. 2:22-cv-00675-TL

Plaintiffs,

v.

Individuals and entities doing business as
MUSTUDY; and DOES 1-10,

Defendants.

AMAZON.COM, Inc., a Delaware
corporation; AMAZON.COM SERVICES
LLC, a Delaware limited liability company;
and WEBER-STEPHEN PRODUCTS
LLC, a Delaware Limited Liability
Company,

Plaintiffs,

v.

Individuals and entities doing business as
STW HARDWARE and ACOVER; and
DOES 1-10,

Defendants.

CASE NO. 2:22-CV-00676-TL

This matter comes before the Court on an *ex parte* motion from Plaintiffs Amazon.com, Amazon.com Services LLC, and Weber-Stephen Products LLC to serve third-party subpoenas prior to the Rule 26(f) conference (Dkt. No. 14). Upon review of the relevant record and governing law, the Court GRANTS the motion.

I. BACKGROUND

This Court previously granted a motion from Plaintiffs to authorize service of third-party subpoenas to uncover the identities and locations of defendants alleged to have advertised and sold counterfeit Weber grill covers in the Amazon store. *See* Dkt. Nos. 1, 7, 8. Since then, upon request from Plaintiffs, the Court has consolidated three later-filed cases into this action collectively with this case (the “Consolidated Cases”). *See* Dkt. Nos. 11, 12.

1 Plaintiffs now request leave to serve subpoenas on the following third-parties, all
 2 payment service or logistics providers associated with the defendants in the consolidated cases:
 3 (1) Payoneer Inc.; (2) LL Pay U.S., LLC; (3) Kinghood International Logistics Inc.; and (4) Exel
 4 Inc. d/b/a DHL Supply Chain USA. Dkt. No. 14 at 3. Plaintiffs explain this discovery will allow
 5 them to uncover “crucial information about Defendants’ true identities and locations.” *Id.*

6 II. DISCUSSION

7 The Federal Rules of Civil Procedure typically require parties to hold a Rule 26(f)
 8 conference prior to seeking discovery, but a court can authorize discovery prior to that point,
 9 upon a showing of good cause. Fed. R. Civ. P. 26(d)(1); *see, e.g., Microsoft Corp. v. Mai*, No.
 10 9-474, 2009 WL 1393750, at *5 (W.D. Wash. May 15, 2009) (requiring good cause for
 11 expedited discovery). “Good cause exists ‘where the need for expedited discovery, in
 12 consideration of the administration of justice, outweighs the prejudice to the responding party.’ ”
 13 *Mai*, 2009 WL 1393750 at *5 (quoting *Semitoool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D.
 14 273, 276 (N.D. Cal. 2002)). As explained by the Ninth Circuit, “where the identity of alleged
 15 defendants will not be known prior to the filing of a complaint[,] . . . the plaintiff should be
 16 given an opportunity through discovery to identify the unknown defendants, unless it is clear that
 17 discovery would not uncover the identities, or that the complaint would be dismissed on other
 18 grounds.” *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980) (internal citations omitted).
 19 Therefore, “[c]ourts routinely permit early discovery for the limited purpose of identifying ‘Doe’
 20 defendants on whom process could not otherwise be served.” *Music Grp. Macao Com. Offshore*
 21 *Ltd. v. John Does I-IX*, No. 14-621, 2014 WL 11010724, at *1 (W.D. Wash. July 18, 2014)
 22 (internal citations omitted).

23 A plaintiff may establish good cause for early discovery on anonymous internet
 24 defendants by: (1) identifying the ‘Doe’ defendant with enough specificity “that the Court can

determine that the defendant is a real person who can be sued in federal court;” (2) recounting their efforts to locate and identify the ‘Doe’ defendant; (3); demonstrating that the action would survive a motion to dismiss; and (4) demonstrating that the requested discovery is “likely to lead to identifying information that will permit service of process.” *Cobbler Nev., LLC v. Does 1-32*, No. 15-1432, 2015 WL 5315948, at *3 (W.D. Wash. Sept. 11, 2015) (citing *Columbia Ins. Co. v. seescandy.com*, 185 F.R.D. 573, 578–80 (N.D. Cal. 1999)).

Plaintiffs have established good cause for further expedited discovery. First, Doe Defendants are individuals or entities that Plaintiffs allege have engaged in false advertising and sale of counterfeit goods. Second, Plaintiffs have made reasonably diligent attempts to identify Defendants’ true identities and locations. *See* Dkt. Nos. 15, 16. Third, Plaintiffs appear to have plead the essential elements of their claims (trademark infringement under 15 U.S.C. § 1114, false designation of origin and false advertising under 15 U.S.C. § 1125(a), violation of the Washington Consumer Protection Act, and, as to certain Defendants, breach of contract).¹ Fourth, Plaintiffs certify that their requests are “narrowly tailored to include only the information necessary to identify and locate the persons and/or entities propagating an illegal campaign that harmed Plaintiffs and their customers.” Dkt. No. 14 at 8.

III. CONCLUSION

For the above reasons, the Court ORDERS the following:

(1) The Court GRANTS the motion for expedited discovery (Dkt. No. 14).

¹ Plaintiffs have plead breach of contract claims in only two of the four consolidated cases. *Compare Amazon.com, Inc., et al. v. PDREAM and PHONIY, et al.*, No. 22-674, Dkt. No. 1 at 17 (W.D. Wash. May 18, 2022) and *Amazon.com, Inc., et al. v. STW Hardware and Acover, et al.*, No. 22-676, Dkt. No. 1 at 17 (W.D. Wash. May 18, 2022) (alleging breach of contract) with Dkt. No. 1 at 21–26 and *Amazon.com, Inc., et al. v. MUSTUDY, et al.*, No. 22-675, Dkt. No. 1 at 12–17 (W.D. Wash. May 18, 2022) (no breach of contract claims).

(2) Plaintiffs may serve Rule 45 subpoenas to the following entities prior to the Rule 26(f) conference to obtain information regarding Defendants' true identities and locations:

- a. Payoneer Inc.;
- b. LL Pay U.S. LLC;
- c. Kinghood International Logistics Inc.; and
- d. Exel Inc. d/b/a DHL Supply Chain USA.

(3) Plaintiffs shall provide a copy of this Order with each subpoena issued pursuant thereto.

(4) To the extent subpoena responses reveal additional entities or individuals as having responsive information related to the identity or location of the Defendants or other actors, Plaintiffs shall seek leave from the Court before serving additional Rule 45 subpoenas.

(5) Once Plaintiffs complete the requested discovery in the Consolidated Cases, Plaintiffs shall file a consolidated, amended complaint naming the individuals and entities identified through third-party discovery.

Dated this 17th day of October 2022.



Tana Lin
United States District Judge